

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 19, 2003

AMENDED IN SENATE MAY 8, 2003

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 352

Introduced by Senator Escutia

February 19, 2003

An act to amend Sections 17074.30 and 17213 of the Education Code, and to amend Section 21151.8 of the Public Resources Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as amended, Escutia. Schoolsites: sources of pollution.

Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.

Existing law requires a school district that submits an application for modernization funding after January 1, 2004, to certify that it has considered the potential for the presence of lead-containing materials in the modernization project and will follow all relevant federal, state, and local standards for the management of any identified lead.

This bill would, in addition, require an applicant to certify that it plans to take reasonable steps to mitigate air quality problems that may result from being within 500 feet of the edge of the closest traffic lane of a freeway or other significant source of hazardous air pollutants.

Existing law sets forth various requirements regarding the siting, structural integrity, safety, and fitness-for-occupancy of school buildings, including, but not limited to, a prohibition of the approval by the governing board of a school district of the acquisition of a schoolsite by a school district, unless prescribed conditions relating to possible exposure to hazardous substances are satisfied, and a prohibition on the approval of a related environmental impact report or negative declaration.

This bill would, in addition, prohibit the approval by the governing board of a school district of a schoolsite within 500 feet from the edge of the closest traffic lane of a freeway or busy roadway, unless prescribed conditions are met and would make conforming changes.

Existing law requires the lead agency to consult with prescribed agencies to identify facilities that might reasonably be anticipated to emit hazardous materials, within $\frac{1}{4}$ of a mile of the schoolsite.

This bill would define “facility” for this purpose and would require the lead agency to consult to identify freeways and other busy traffic corridors, as defined, large agricultural operations, and railyards, within $\frac{1}{4}$ of a mile of the schoolsite, and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many studies have shown significantly increased levels of
- 4 pollutants, particularly diesel particulates, in close proximity to
- 5 freeways and other major diesel sources. A recent study of Los
- 6 Angeles area freeways measured diesel particulate levels up to 25
- 7 times higher near freeways than those levels elsewhere. Much of
- 8 the pollution from freeways is associated with acute health effects,
- 9 exacerbating asthma and negatively impacting the ability of
- 10 children to learn.



(b) Cars and trucks release at least forty different toxic air contaminants, including, but not limited to, diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Levels of these pollutants are generally concentrated within 500 feet of freeways and very busy roadways.

(c) Current state law governing the siting of schools does not specify whether busy freeways should be included in environmental impact reports of nearby “facilities.” Over 150 schools are already estimated to be within 500 feet of extremely high traffic roadways.

(d) A disproportionate number of economically disadvantaged pupils may be attending schools that are close to busy roads, putting them at an increased risk of developing bronchitis from elevated levels of several pollutants associated with traffic. Many studies have confirmed that increased wheezing and bronchitis occurs among children living in high traffic areas.

(e) It is therefore the intent of the Legislature to protect school children from the health risks posed by pollution from heavy freeway traffic and other nonstationary sources in the same way that they are protected from industrial pollution.

SEC. 2. Section 17074.30 of the Education Code is amended to read:

17074.30. Commencing with applications submitted after January 1, 2004, any school district applying for funding pursuant to this article shall do all of the following:

(a) Certify that it has considered the potential for the presence of lead-containing materials in the modernization projects and will follow all relevant federal, state, and local standards for the management of any identified lead.

(b) Certify that it has considered the potential for adverse health impacts due to degraded air quality that may result from being within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor as defined in paragraph (9) of subdivision (d) of Section 17213 or other significant source of hazardous air pollutants.

SEC. 3. Section 17213 of the Education Code is amended to read:

17213. The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(4) Within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, unless the governing board of the school district determines through analysis, pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, that the air quality at the proposed site, after considering any potential mitigation measures, does not pose any significant acute or chronic health risks to pupils or staff.

(b) The lead agency, as defined in Section 21067 of the Public Resources Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities *within that district's authority*, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:



1 (1) Consultation identified none of the facilities or significant
2 pollution sources specified in subdivision (b).

3 (2) The facilities or other pollution sources specified in
4 subdivision (b) exist, but one of the following conditions applies:

5 (A) The health risks from the facilities or other pollution
6 sources do not and will not constitute an actual or potential
7 endangerment of public health to persons who would attend or be
8 employed at the school.

9 (B) The governing board finds that corrective measures
10 required under an existing order by another jurisdiction which has
11 jurisdiction over the facilities or other pollution sources will,
12 before the school is occupied, result in the mitigation of all chronic
13 or accidental hazardous air emissions to levels that do not
14 constitute an actual or potential endangerment of public health to
15 persons who would attend or be employed at the proposed school.
16 If the governing board makes this finding, the governing board
17 shall also make a subsequent finding, prior to the occupancy of the
18 school, that the emissions have been mitigated to these levels.

19 (d) As used in this section:

20 (1) “Hazardous air emissions” means emissions into the
21 ambient air of air contaminants which have been identified as a
22 toxic air contaminant by the State Air Resources Board or by the
23 air pollution control officer for the jurisdiction in which the project
24 is located. As determined by the air pollution control officer,
25 hazardous air emissions also means emissions into the ambient air
26 from any substance identified in subdivisions (a) to (f), inclusive,
27 of Section 44321 of the Health and Safety Code.

28 (2) “Hazardous substance” means any substance defined in
29 Section 25316 of the Health and Safety Code.

30 (3) “Acutely hazardous material” means any material defined
31 pursuant to subdivision (a) of Section 25532 of the Health and
32 Safety Code.

33 (4) “Hazardous waste” means any waste defined in Section
34 25117 of the Health and Safety Code.

35 (5) “Hazardous waste disposal site” means any site defined in
36 Section 25114 of the Health and Safety Code.

37 (6) “Administering agency” means any agency designated
38 pursuant to Section 25502 of the Health and Safety Code.

(7) “Handle” means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(8) “Facilities” means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the criteria established by the Department of Toxic Substances Control pursuant to Section 25141 of the Health and Safety Code, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.

(9) “Freeway or other busy traffic corridors” means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

SEC. 4. Section 21151.8 of the Public Resources Code is amended to read:

21151.8. (a) An environmental impact report or negative declaration may not be approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:

(1) The environmental impact report or negative declaration includes information which is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

(2) The lead agency preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities *within that district's authority*, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. The notification by the lead agency shall include a list of the locations for which information is sought.

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no such facilities or other significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes such a finding, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

(4) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be

1 conclusively presumed to comply with this section as to the area
2 of responsibility of any agency which does not respond within 30
3 days.

4 (b) If a lead agency has carried out the consultation required by
5 paragraph (2) of subdivision (a), the environmental impact report
6 or the negative declaration shall be conclusively presumed to
7 comply with this section, notwithstanding any failure of the
8 consultation to identify an existing facility or other pollution
9 source specified in paragraph (2) of subdivision (a).

10 (c) As used in this section and Section 21151.4, the following
11 definitions shall apply:

12 (1) “Hazardous substance” means any substance defined in
13 Section 25316 of the Health and Safety Code.

14 (2) “Acutely hazardous material” means any material defined
15 pursuant to subdivision (a) of Section 25532 of the Health and
16 Safety Code.

17 (3) “Hazardous waste” means any waste defined in Section
18 25117 of the Health and Safety Code.

19 (4) “Hazardous waste disposal site” means any site defined in
20 Section 25114 of the Health and Safety Code.

21 (5) “Hazardous air emissions” means emissions into the
22 ambient air of air contaminants which have been identified as a
23 toxic air contaminant by the State Air Resources Board or by the
24 air pollution control officer for the jurisdiction in which the project
25 is located. As determined by the air pollution control officer,
26 hazardous air emissions also means emissions into the ambient air
27 from any substances identified in subdivisions (a) to (f), inclusive,
28 of Section 44321 of the Health and Safety Code.

29 (6) “Administering agency” means an agency designated
30 pursuant to Section 25502 of the Health and Safety Code.

31 (7) “Handle” means handle as defined in Article 1
32 (commencing with Section 25500) of Chapter 6.95 of Division 20
33 of the Health and Safety Code.

34 (8) “Facilities” means any source with a potential to use,
35 generate, emit or discharge hazardous air pollutants, including, but
36 not limited to, pollutants that meet the criteria established by the
37 Department of Toxic Substances Control pursuant to Section
38 25141 of the Health and Safety Code, and whose process or
39 operation is identified as an emission source pursuant to the most



1 recent list of source categories published by the California Air
2 Resources Board.

3 (9) “Freeway or other busy traffic corridors” means those
4 roadways that, on an average day, have traffic in excess of 50,000
5 vehicles in a rural area, as defined in Section 50101 of the Health
6 and Safety Code, and 100,000 vehicles in an urban area, as defined
7 in Section 50104.7 of the Health and Safety Code.

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